95

HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition No. 3419 of 1997

Petitioner — Jitendra Badwani, S/o. Shri Jodhram Badwani, aged about 26 years, r/o. Fafadi, Naka, Gali No.3, P.O. Raipur (MP).

Versus

Respondents

1. State of Madhya Pradesh through Secretary, Labour & Employment, New Secretariat Building, Bhopal (MP).
2. The Collector, Durg (MP).
3. The Assistant Labour Commissioner, Government of M.P. 49/91, Nehru Nagar (East), District Durg (MP).

(Writ Petition under Article 226/227 of the Constitution of India)

SB: Hon'ble Mr. Justice Satish K. Agnihotri

Present: Shri B.R. Ghosh, counsel for the petitioner.
Shri N.K. Agrawal, Deputy Advocate General with Ms. Dipali Pandey, Panel Lawyer for the State.

ORDER
(Passed on this 24th July, 2007)

Learned counsel appearing for the petitioner submits that the respondent No.3 working as Inspector under the provisions of Child Labour (Prohibition & Regulation) Act, 1986, issued a show cause notice dated 29-7-1997 (Annexure A/1) imposing a penalty of Rs.80,000/- for engaging child labours in Brick Kiln located at village Kandarka, Post Godhali, Berla, District Durg. Learned counsel further submits that the notice was issued without making any enquiry asto whether the petitioner has engaged child labours or not as it does not indicate the father's name as well as their addresses.

2) Learned counsel appearing for the respondents/State submits that on survey held between 3-4- 1997 to 15-4-1997 by the respondent No.3, it was found that the named children were found working as labour in the establishment owned by the petitioner. Therefore, in view of the order passed by the Hon'ble Supreme Court in the case of **M.C. Mehta Vs. State of Tamil Nadu** (1996 Vol. VI SCC 756) a show cause notice was issued imposing a penalty at the rate of Rs.20,000/- per child labour. The impugned notice was stayed by the Court vide order dated 6-10-1997.

3) Be that as it may, in the event, the petitioner has engaged the children as labour, that is a serious offence. However, in the interest of in fair play in action the respondent No.3 is directed to make proper enquiry after giving opportunity of hearing to the petitioner and pass appropriate order, thereafter, in accordance with law.

4) In view of the foreging, the impugned show cause notice dated 29-7-1997 (Annexure A/1) is quashed. No order as to costs.

Sd/-
SATISH K. AGNIHOTRI
Judge

raju